

*R*  
*Avn*


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) Magistrate Case No.: 08MJ8366  
 )  
Plaintiff, ) COMPLAINT FOR VIOLATION OF  
 )  
v. ) Title 8, U.S.C., § 1326  
 ) Attempted Entry After  
Juan Antonio CALITO-Chitay, ) Deportation (Felony)  
 )  
Defendant. ) AMENDED

The undersigned complainant being duly sworn states:

On or about April 30, 2008, within the Southern District of California, defendant Juan Antonio CALITO-Chitay, an alien, knowingly and intentionally attempted to enter the United States of America with the purpose, i.e. conscious desire, to enter the United States without the express consent of the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, after having been previously excluded, deported and removed from the United States to Guatemala, and not having obtained said express consent to reapply for admission thereto; and committed an overt act, to wit, crossing the border from Mexico into the United States, that was a substantial step towards committing the offense, all in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached Statement of Facts, which is incorporated herein by reference.

  
MARCO A. MIRANDA  
Senior Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 2<sup>ND</sup> DAY  
OF MAY 2008.

  
JAY R. IRWIN  
UNITED STATES MAGISTRATE JUDGE

1 UNITED STATES OF AMERICA

2 v.

3 Juan Antonio CALITO-Chitay

4 STATEMENT OF FACTS

5 The complaint and Statement of Facts is being amended to reflect the Defendant's, Juan  
6 Antonio CALITO-Chitay, true country of birth as Guatemala.

7 The complainant states that this complaint is based upon the statements of the  
8 apprehending Border Patrol Agent, R. Harrington, that the Defendant was arrested on April 30,  
9 2008, east of Calexico, California.

10 BPA Harrington was performing his assigned Border Patrol duties approximately 3.5  
11 miles east of the downtown Calexico, California, Port of Entry. At approximately 9:00 p.m. the  
12 Remote Video Surveillance Systems (RVSS) operators observed a group of individuals cross the  
13 United States/Mexico International Boundary by rafting across the All American Canal. The  
14 RVSS operator maintained constant visual of the group as they ran north into an agricultural  
15 field. Agent Harrington responded to the area. The RVSS operator guided Agent Harrington to  
16 the group's location. Agent Harrington found five subjects one later identified as, Juan Antonio  
17 CALITO-Chitay. Agent Harrington identified himself as a United States Border Patrol Agent  
18 and questioned him as to his immigration status. CALITO-Chitay stated that he was a citizen of  
19 Mexico illegally in the United States. CALITO-Chitay also admitted to entering the United  
20 States by crossing over the International Border. CALITO-Chitay was arrested and transported  
21 to the Calexico Border Patrol Station for further processing.

22 Record checks revealed that an Immigration Judge ordered CALITO-Chitay deported.  
23 Record checks also revealed CALITO-Chitay was not a citizen of Mexico, but a citizen of  
24 Guatemala. CALITO-Chitay was ordered deported on October 22, 2006. Record checks  
25 revealed that CALITO-Chitay has an extensive criminal record.

26 There is no evidence CALITO-Chitay has sought or received permission from the  
27 Attorney General or the Secretary of the Department of Homeland Security to re-enter the United  
28 States.  
29